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अण्डमान तथा निकोबार प्र'ासन
ANDAMAN AND NICOBAR ADMINISTRATION
सचिवालय/SECRETARIAT
NOTIFICATION

Port Blair, dated the 18th October, 2011

No. 232/2011/F. No. 45-196/2009-Home (Police Reforms).— In compliance with the directions passed by the Hon'ble Supreme Court in WP (C) No. 310/1996 (Prakash Singh & Ors-Vs- Union of India & Ors) and in terms of the guidelines issued by the Govt. of India, Ministry of Home Affairs, New Delhi vide letter No. 14040/35/2009-UTP dated 23.03.2010 and letter No. 14040/127/2010-UTP dated 04.02.2011, the Lt. Governor (Administrator), Andaman & Nicobar Islands has been pleased to frame the terms and conditions for setting up the **Police Complaint Authority** for A&N Islands, namely :

1. Short title and date of commencement :

- (a) This may be called the terms and conditions of Police Complaint Authority of Andaman and Nicobar Islands, 2011.
- (b) It will come into force from the date of publication of Notification in Official Gazette of Andaman and Nicobar Administration.

2. Jurisdiction :

The Jurisdiction of the Police Complaint Authority shall be the entire Union Territory of Andaman and Nicobar Islands.

3. Composition :

- (i) Police Complaint Authority of Andaman and Nicobar Islands shall be headed by the Chairperson with two Members and one of the Members should be a woman.
- (ii) The eligibility criteria for selection of Chairperson and Members for Police Complaint Authority:
 - (a) A retired High Court/District Judge or retired Civil Service Officer of the rank of Secretary;
 - (b) A person having 10 years of experience in law, either as Judicial Officer, Public Prosecutor, Lawyer or Professor of Law;
 - (c) A person of repute and stature from civil society;
 - (d) A retired Officer with experience in Public Administration; and
 - (e) A retired Police Officer of appropriate rank.

As per the guidelines of MHA referred to above, the Chairperson is to be selected from Category (a) to (e) and for Members from category (b) to (e).

4. Appointing Authority of Chairman and Members :

The Lt. Governor (Administrator), Andaman and Nicobar Islands is the Appointing Authority of Chairperson and Members of Police Complaint Authority.

The Chairperson or Members of the Police Complaints Authority may be removed from office by the Administrator after giving him/her an opportunity to be heard. However, the Administrator shall, on receipt of the response, record his/her findings and forward the entire case with his/her recommendations to the Central Government for obtaining its prior approval before issuing the order.

The Chairperson and Members of the Police Complaint Authority shall not engage himself/herself, during his/her term of office, in any paid employment, outside the duties of office without permission of the Union Territory Administration.

5. Terms and conditions :

The term of the office of the Chairperson and the Members will be for three years and they may be entitled to the following remunerations :

- a. Chairperson - ` 3500/- per sitting, subject to the condition that the annual amount may not exceed ` 4.8 lakhs, and
- b. Members - ` 3000/- per sitting, subject to the condition that the annual amount may not exceed ` 4.8 lakhs.

6. Powers and functions :**(a) The functions of the Police Complaints Authority will be as under :**

- (i) The Authority shall inquire into allegations of "serious misconduct" against Police Personnel, as detailed below, either *suo moto* or on a complaint received from any of the following :
 - (a) a victim or any person on his/her behalf;
 - (b) the National or the State Human Rights Commission;
 - (c) the police; or
 - (d) any other source.

Explanation : "Serious misconduct" for the purpose of this chapter shall mean any act or omission of a police officer that leads to or amounts to :

- (a) death in police custody;
- (b) grievous hurt, as defined in Section 320 of the Indian Penal Code, 1860;
- (c) rape or attempt to commit rape;
- (d) arrest or detention without due process of law;
- (e) extortion;
- (f) land/house grapping; or
- (g) any incident involving serious abuse of authority.

Provided that the Authority shall inquire into a complaint of such arrest or detention, only if it is satisfied *prima facie* about the veracity of the complaint.

- (ii) The Authority may also inquire into any other case referred to it by the Administrator/Central Government.

7. The power of the Police Complaints Authority may be as under :

- (i) The Authority may require any person or authority to furnish information on such points or matters as in the opinion of the Authority may be useful for or relevant to the subject matter of enquiry;

- (ii) The Authority, before finalizing its opinion, shall give the Police Officer heading the police force in the UT an opportunity to present the department's view and additional facts, if any, not already in the notice of the Authority and in such cases, the Authority may review its findings upon receipt of additional information from the Police Officer heading the police force in the UT that may have a material bearing on the case.
- (iii) In the cases directly inquired by the Authority, it may, upon completion of the inquiry, communicate its findings to the police officer heading the police force in the UT with a direction to :-
 - (a) register a First Information Report; and/or
 - (b) Initiate departmental action based on such findings, duly forwarding the evidence collected by it to the police.
- (iv) The directions of the Authority shall ordinarily be binding, unless for the reasons to be recorded in writing, the UT Administration decides to disagree with the findings of the Authority.
- 8. The Authority may submit its findings in a case within a period of 60 days from the date of receipt of the complaint and in case of inability to meet the deadline; the Authority may submit a report showing reasons therefore to the Administrator.
- 9. Police Complaints Authority will be provided the supporting staff i.e. one Computer-knowing Stenographer, one Office Superintendent (PB 2, Grade Pay – 4200) and one employee with multitasks. The UT Administrations will provide the Stenographer and Office Superintendent from the strength of Administration and the employees with multitasks would be outsourced by the Administration. The UT Administrations will also provide other infrastructure and logistical support to the PCAs from their own resources. A serving officer of the UT Administration not below the rank of Joint Secretary to the UT Administration may be designated as Convener-cum-Secretary to the Police Complaints Authority of the respective Union Territory.
- 10. The Police Complaints Authority would be a computer-based office.

By order of the Lieutenant Governor,
Andaman and Nicobar Islands.

Sd./-
(B.B. GHARAMI)
Assistant Secretary (Home)